

FINANCIAL INSTITUTIONS

Budget Summary							
Fund	2002-03 Base Year Doubled	2003-05 Governor	2003-05 Jt. Finance	2003-05 Legislature	2003-05 Act 33	Act 33 Change Over Base Year Doubled	
						Amount	Percent
PR	\$30,868,000	\$30,819,400	\$30,606,500	\$30,606,500	\$30,606,500	- \$261,500	- 0.8%

FTE Position Summary						
Fund	2002-03 Base	2004-05 Governor	2004-05 Jt. Finance	2004-05 Legislature	2004-05 Act 33	Act 33 Change Over 2002-03 Base
PR	168.50	148.00	154.00	154.00	154.00	- 14.50

Budget Change Items

1. STANDARD BUDGET ADJUSTMENTS

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR-REV	\$0	\$136,100	\$136,100
PR	\$1,182,500	- \$135,400	\$1,047,100

Governor: Adjust the agency's base budget for: (a) turnover reduction (-\$197,300 annually); (b) full funding of salaries and fringe benefits (\$705,100 annually); (c) reclassifications (\$6,400 in 2003-04 and \$17,100 in 2004-05); (d) fifth week of vacation as cash (\$67,000 in 2003-04 and \$68,400 in 2004-05); and (e) full funding of lease costs (\$4,000 annually).

Joint Finance/Legislature: Delete funding for fifth week of vacation as cash (-\$67,000 in 2003-04 and -\$68,400 in 2004-05).

At the end of each fiscal year, DFI lapses unencumbered program revenue to the general fund. Under Program 1 (the supervision of financial institutions, securities regulation, and other functions), the entire balance at the close of the fiscal year is lapsed to the general fund. For Program 2, (the Office of Credit Unions), only the amount of the balance exceeding 10% of the

previous fiscal year's expenditures under the appropriation is lapsed. The remainder is retained in the general program operations appropriation for the Office of Credit Unions.

As a result of the lapse requirements, deleting funding for fifth week of vacation as cash would increase the lapses to the general fund by \$60,100 at the end of 2003-04 and by \$76,000 at the end of 2004-05.

2. BASE BUDGET REDUCTION [LFB Paper 341]

	<u>Governor</u> <u>(Chg. to Base)</u>		<u>Jt. Finance/Leg.</u> <u>(Chg. to Gov)</u>		<u>Net Change</u>	
	<u>Funding</u>	<u>Positions</u>	<u>Funding</u>	<u>Positions</u>	<u>Funding</u>	<u>Positions</u>
GPR-REV	\$0	0.00	-\$8,900	0.00	-\$8,900	0.00
PR	-\$1,331,400	-13.50	\$0	0.00	-\$1,331,400	-13.50

Governor: Reduce expenditure and position authority in the Department's general program operations appropriation for financial institutions and securities regulation by \$406,200 and 8.50 positions annually and authority in the Department's general program operations appropriation for the Office of Credit Unions by \$259,500 and 5.0 positions annually. The administration indicates that the deleted positions would include 6.0 financial examiners (5.0 of which are in the Office of Credit Unions), 3.0 records management positions, 1.50 program assistants, 2.0 communications specialists, and 1.00 information systems position.

Joint Finance/Legislature: Approve the Governor's proposal with a modification to restore 2.0 financial examiner positions and \$89,600 annually to the Office of Credit Unions and delete such position and expenditure authority from DFI's general program operations appropriation for financial institutions and securities regulation. As a result of this change and of differences between the two programs with respect to the method of estimating the lapse to the general fund at the end of each fiscal year, increase the estimated lapse in 2003-04 by \$21,100 and decrease the estimated lapse in 2004-05 by \$30,000.

3. MORTGAGE BANKING AND LICENSED FINANCIAL SERVICES ENTITIES -- ON-LINE APPLICATIONS [LFB Paper 342]

	<u>Governor</u> <u>(Chg. to Base)</u>	<u>Jt. Finance/Leg.</u> <u>(Chg. to Gov)</u>	<u>Net Change</u>
GPR-REV	\$0	\$216,000	\$216,000
PR	\$242,000	-\$242,000	\$0

Governor: Provide \$242,000 in 2004-05 to develop and maintain an internet-based system through which mortgage bankers, mortgage brokers, and loan originators could apply for, renew, and pay for an operating license. With the new system, these institutions also would be able to perform routine maintenance functions, such as processing changes of address,

electronically. In addition, licensed financial service entities--loan companies, collection agencies, currency exchange companies, and similar entities--would be able to file annual reports, renew their licenses, and process routine information updates on-line. The Department indicates these electronic capabilities would be developed to mirror similar capabilities being added in the Division of Securities.

Joint Finance/Legislature: Delete provision. As a result, increase the estimated lapse to the general fund at the end of 2004-05 by \$216,000 (to reflect the net effect of eliminating additional estimated revenues of \$26,000 and expenditures of \$242,000 in 2004-05).

4. FILING REQUIREMENTS FOR AN ANNUAL REPORT OF A DOMESTIC LIMITED LIABILITY COMPANY [LFB Paper 343]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR-REV	\$0	- \$890,000	- \$890,000
PR-REV	\$3,550,000	- \$890,000	\$2,660,000
PR	\$200,000	\$0	\$200,000

Governor: Modify Chapter 183 of the statutes to require domestic limited liability companies (LLCs) to file an annual report with the Department of Financial Institutions (DFI). Currently, only foreign LLCs must file an annual report with the Department. A domestic LLC is one organized under Wisconsin's laws; a foreign LLC is one organized under a law other than the laws of this state.

Under the bill, each domestic LLC would be required to file its initial annual report with DFI during the first calendar quarter of the year following the calendar year in which the LLC's articles of organization became effective. For domestic LLCs in existence on the bill's general effective date, the initial report to DFI would have to be filed during the first calendar quarter of 2004. Thereafter, LLCs would be required to file each annual report during the first calendar quarter of each subsequent year.

The bill directs DFI to assess a \$25 filing fee (the filing fee for foreign LLCs is \$65) and provides \$175,000 in 2003-04 and \$25,000 in 2004-05 to fund development of capabilities to allow the Department to accept the required reports on-line. DFI estimates that the new filing requirement would result in additional revenues of approximately \$1,150,000 in 2003-04 and \$2,400,000 in 2004-05. [Any additional revenues that are not expended by DFI would lapse to the general fund at the end of each fiscal year.]

The proposal would make other changes as outlined below:

Information Required to be Included in the Filed Annual Report. As noted, under current law as it applies to LLCs, only foreign LLCs must file an annual report with DFI. The bill would require domestic LLCs to file an annual report with DFI, and, in the report, to include

generally the same basic information about the company currently required to be present in a foreign LLC's annual report. Therefore, a domestic LLC would be required to include in its filed report: (a) the name of the LLC and the state under whose law it is organized; (b) the address of the LLC's registered office and the name of its registered agent at that office in Wisconsin; (c) the address of the LLC's principal office; (d) the name and business address of each manager, if management of the company is vested in one or more managers; (e) the name and address of each member of the LLC; and (f) a brief description of the nature of the LLC's business. As with foreign LLC annual reports, the bill would require information presented in a domestic LLC's annual reports to be current as of the date on which the annual report is executed on behalf of the LLC, with the proviso that the name and business address of each member of the LLC would have to be current as of the close of the LLC's fiscal year immediately prior to the date by which the report is required to be filed with DFI. If an annual report failed to contain the specified information, DFI would be required to promptly notify the company in writing and return the report to it for correction.

Means of Changing the Registered Office or Registered Agent. Current law requires an LLC to continuously maintain a registered office and registered agent in Wisconsin and allows foreign LLCs to change their registered office or registered agent by submitting the new information in the annual report, with the change effective on the date the annual report is filed by DFI. The bill, in creating a requirement for domestic LLCs to file an annual report, would allow the domestic LLC to change its registered office or registered agent by submitting the new information in its annual report.

New Administrative Dissolution and Reinstatement Provisions. The bill would create new administrative dissolution and reinstatement provisions as described below.

DFI would be granted authority to initiate a proceeding to administratively dissolve any LLC that does not deliver the company's complete annual report to the Department within one year after such report is due. If DFI determined that grounds existed for dissolving an LLC stemming from the LLC's failure to file an annual report, the Department would be required to mail the LLC a written notice of the determination addressed to the registered office of the LLC. If this notice were returned to DFI as undeliverable, the Department would have to again mail the notice to the LLC. If the re-mailed notice were returned to DFI, the Department would have to provide the notice by publishing a class two notice in the official state newspaper.

Within 60 days after the date on which the notice was received or the date on which the second insertion of a class two notice was published, the LLC would be required to correct each ground for dissolution or demonstrate to the reasonable satisfaction of DFI that each ground determined by the Department did not exist. If the LLC failed to meet the 60-day deadline, DFI would be required to administratively dissolve the LLC and enter a notation in its records to reflect each ground for dissolution and the effective date of dissolution. DFI would have to mail the LLC a notice of these facts and a certificate of dissolution. The notice and certificate would have to be in writing and addressed to the registered office of the LLC. The dissolution would be subject to judicial review. If the mailed notice of facts and certificate of dissolution were returned to DFI as undeliverable, the Department would have to again mail these

documents to the LLC. If the re-mailed documents were returned to DFI, the Department would have to provide the notice by publishing a class two notice in the official state newspaper. An LLC's right to exclusive use of its name would terminate on the date of the administrative dissolution.

The bill provides that, if DFI administratively dissolved an LLC for not delivering its annual report, the LLC would be dissolved and its affairs would be wound up, unless the company were subsequently reinstated by DFI or pursuant to judicial review. An LLC that has been administratively dissolved could apply to DFI for reinstatement within 30 days after the date on which the LLC was dissolved. The application would have to include all of the following: (a) the name of the LLC and the date on which it was administratively dissolved; (b) a statement that each ground for dissolution either did not exist or had been cured; and (c) a statement that the LLC had met the requirements outlined in the statutes regarding LLC names and written designations for such names.

DFI would be required to cancel the certificate of dissolution and issue a certificate of reinstatement upon determining that the application contained the information required, that the information was correct, and that all fees and penalties owed by the LLC to the Department had been paid. The certificate of reinstatement would have to state the Department's determination that these criteria had been met and the effective date of reinstatement. The Department would then be required to file the certificate and provide a copy to the LLC or its representative. When the reinstatement became effective, it would relate back to, and take effect as of, the effective date of the administrative dissolution, and the LLC would be allowed to resume carrying on its business as if the administrative dissolution had never occurred.

If DFI denied an LLC's application for reinstatement, it would be required to serve the limited liability company with a written notice of denial explaining each reason for the denial. The denial would be subject to judicial review.

Joint Finance/Legislature: Approve the Governor's proposal with the following modifications: (a) reduce estimated program revenues and GPR-Earned under these provisions by \$290,000 in 2003-04 and by \$600,000 in 2004-05; (b) require domestic LLC annual reports to be filed before the end of the calendar quarter in which the anniversary date of the domestic LLC occurs, rather than before the end of the first calendar quarter in a year; and (c) delete the requirement that the report include the name and address of each member of the LLC.

[Act 33 Sections: 2122 thru 2132, and 9120(1)]

5. ELIMINATION OF THE DIVISION OF SAVINGS INSTITUTIONS

Funding Positions		
PR	- \$177,200	- 1.00

Governor/Legislature: Eliminate the Division of Savings Institutions in DFI, which currently regulates savings banks and savings and loan associations (S&Ls), and provide that savings banks and S&Ls would be regulated by the Division of Banking in DFI. Reduce position authority in DFI by 1.0 PR position to reflect the elimination of

a vacant division administrator position in the Division of Savings Institutions, and decrease funding for this position by \$88,600 annually. Eliminate the Savings and Loan Review Board and the Savings Bank Review Board and replace these with the Savings Institutions Review Board (SIRB). Implement other changes as outlined below.

Review Board

As noted, the bill would eliminate the Savings and Loan Review Board and the Savings Bank Review Board and replace these with the Savings Institutions Review Board. The SIRB would consist of five members appointed for five-year terms, at least three of whom would be required to possess at least five years experience in the S&L or savings bank business in Wisconsin. However, the terms of office of two members initially appointed to the SIRB would end on May 1, 2007, while the terms of the remaining three initial members would terminate on May 1, 2009. The current Savings and Loan Review Board consists of seven members appointed for staggered four-year terms, at least five of whom are required to have at least ten years' experience in the S&L business in Wisconsin. The Savings Bank Review Board also consists of seven members, appointed for four-year terms (not staggered), at least five of whom must have a minimum of ten years' experience in the savings bank or savings and loan association business.

As with the existing boards, members of the SIRB would be appointed by the Governor, with the advice and consent of the Senate. Board members would be reimbursed for actual and necessary expenses incurred in the performance of their duties at a rate of \$10 per day, the same rate paid to members of the two existing boards for their duty-related expenses.

Under the Governor's proposal, the terms of office of members of both existing boards would terminate on the bill's general effective date. Under current law, the terms of three members of the Savings Bank Review Board are scheduled to expire on May 1, 2003, while the terms of the remaining four members are scheduled to expire on May 1, 2005. For the Savings and Loan Review Board, two board members' terms are scheduled to expire on May 1, 2003; the remaining five members' terms are scheduled to expire on May 1, 2005.

Duties, Responsibilities, and Powers of the Savings Institution Review Board

The SIRB would be vested with responsibilities and procedural powers substantially similar to those of the Savings and Loan Review Board and of the Savings Bank Review Board. These responsibilities and powers are summarized below.

General Duties and Responsibilities. The SIRB would be required to do all of the following: (a) advise the Division of Banking on matters regarding the statutes related to savings institutions; (b) review the acts, orders, and determinations of the Division of Banking as they relate to savings institutions; (c) act on any matters pertaining to the statutes regarding savings institutions that are submitted to it by the Division of Banking; (d) perform other review functions relating to the statutes regarding savings institutions; and (e) conduct hearings and take testimony, and subpoena and swear witnesses at such hearings. The review board would have general powers of subpoena as granted to other state boards.

Appearances. An interested party could appear at a proceeding of the SIRB and participate in the examination of witnesses and present evidence. A person who caused a witness to be subpoenaed would be required to pay the fees and mileage expenses of the witness.

Review of Division of Banking Acts, Orders, or Determinations. Any interested person or a savings association aggrieved by any act, order, or determination of the Division of Banking, which relates to savings and loan associations, could, within 20 days after receipt or service of a copy of the act, order, or determination, file a written notice requesting the SIRB's review of the Division's act, order, or determination. The review of the Division's decision by the SIRB would be solely to determine: (a) if the Division acted within the scope of its authority and did not act in an arbitrary or capricious manner; and (b) to determine if the act, order, or determination of the Division were supported by substantial evidence in view of the entire record as submitted. The review of applications for new charters, branch offices, or relocation of offices would have to be based exclusively on the record; new evidence could not be taken as part of the review. Requests for review under these provisions would have to be considered and disposed of as speedily as possible.

Review of SIRB Decisions. A determination of the SIRB would be subject to judicial review under the general provisions of the statutes regarding administrative procedure and review [Chapter 227]. If an act, order, or determination of the Division of Banking were reversed or modified by the SIRB, the Division would be considered to be a person aggrieved and directly affected by the decision and would be entitled to pursue judicial review of the Board's decision.

Conflict-of-Interest Provisions. Under the bill, a member of the SIRB could not act on any matter involving a savings and loan association or savings and loan holding company of which the member were an officer, director, employee, or agent. Current law (as it relates to the two existing boards) does not specifically apply to holding companies and does not mention employees or agents, just officers or directors.

Nonstatutory Provisions

Rules and Orders. Under the bill, all rules or orders promulgated or issued by the Division of Savings Institutions that were in effect on the bill's general effective date would become rules of the Division of Banking and would remain in effect until their specified expiration dates or until amended, repealed, or rescinded by the Division of Banking.

Contracts. All contracts entered into by the Division of Savings Institutions in effect on the bill's effective date would remain in effect and would be transferred to the Division of Banking. The Division of Banking would then be required to carry out any obligations under any such contracts until the contract expired or was modified or rescinded by the Division of Banking, to the extent allowed under the contract.

Pending Matters. Any matter pending with the Division of Savings Institutions on the bill's effective date would be transferred to the Division of Banking, and all materials submitted

to, or actions taken by, the Division of Savings Institutions with respect to the pending matter would be considered as having been submitted to or taken by the Division of Banking.

[Act 33 Sections: 79, 80, 84, 85, 109 thru 111, 298, 705, 923, 926, 2052 thru 2055, 2133, 2330 thru 2339, 2342 thru 2346, 2348, 2354 thru 2357, 2378 thru 2384, 2397, 2618, 2692, and 9120(2)]

6. CONSOLIDATION OF STATE AGENCY ATTORNEYS UNDER DOA [LFB Paper 105]

	<u>Governor</u> <u>(Chg. to Base)</u>		<u>Jt. Finance/Leg.</u> <u>(Chg. to Gov)</u>		<u>Net Change</u>	
	<u>Funding</u>	<u>Positions</u>	<u>Funding</u>	<u>Positions</u>	<u>Funding</u>	<u>Positions</u>
GPR-REV	\$0	0.00	-\$164,500	0.00	-\$164,500	0.00
PR	-\$164,500	- 6.00	\$164,500	6.00	\$0	0.00

Governor: Delete \$70,500 in 2003-04 and \$94,000 in 2004-05 and 6.00 PR positions annually to reflect the consolidation of executive branch attorneys under DOA, effective the later of October 1, 2003, or the first day of the third month beginning after the bill is enacted. Reallocate \$437,000 in 2003-04 and \$582,600 in 2004-05 of remaining base level salary and fringe benefits funding that currently supports 5.0 attorney positions to the agency's supplies and services budget to pay for legal services supplied by DOA. DFI's chief counsel position would not be subject to transfer to DOA under the Governor's recommendation.

Joint Finance/Legislature: Delete provision. Direct the Secretary of DOA to delete 31.0 FTE executive branch agency attorney positions, other than attorney positions at the University of Wisconsin System, that are vacant on January 2, 2004, and lapse the associated budgeted non-FED salary and fringe benefits amounts to the general fund in 2003-04 and 2004-05. If fewer than 31.0 FTE agency attorney positions are vacant on January 2, 2004, authorize the Secretary of DOA to delete sufficient additional state agency attorney positions, other than at the University of Wisconsin System, to ensure the elimination of a total of 31.0 FTE state agency attorney positions. The additional fiscal effect of this position deletion requirement is reflected under "Administration -- Transfers to the Department."

In addition, reduce DFI's estimated lapses to the general fund by \$70,500 in 2003-04 and by \$94,000 in 2004-05, to reflect the effect of restoring funding for the attorney positions.

Veto by Governor [D-2]: Delete all references to the word "attorney," so that the Secretary of DOA must eliminate 31.0 positions that are vacant as of January 2, 2004. Delete the exemption of the University of Wisconsin System, so that the only executive branch agencies that would be exempted from the position reductions are the Department of Employee Trust Funds and the Investment Board.

[Act 33 Section: 9101(9x)]

[Act 33 Vetoed Section: 9101(9x)]

7. ELIMINATION OF THE COMMISSIONER OF RAILROADS AND TRANSFER OF CERTAIN FUNCTIONS TO DFI [LFB Paper 640]

Governor: Eliminate the Office of the Commissioner of Railroads (OCR) and require railroad corporations to file the following types of documents with DFI, rather than OCR: all books of account or stock books as may be required by DFI; designation of a principal office within the state; the annual report to the railroad's stockholders; and certificates issued by the Department of Transportation (DOT) for railroad construction or route alteration. Re-assign the approval of route maps for proposed railroads from DFI to DOT.

More information about the provisions under the bill that would eliminate OCR and transfer some of its functions to other agencies can be found in this document under the Public Service Commission, to which OCR is attached for limited purposes under current law.

Joint Finance/Legislature: Delete provision.

8. REESTIMATE OF GPR-EARNED [LFB Paper 340]

GPR-REV	- \$763,800
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Joint Finance/Legislature: Reestimate GPR-Earned from DFI, under the Governor's budget provisions, as \$30,091,000 in 2003-04 and \$24,546,200 in 2004-05. Compared to the estimates in the bill, the reestimates are \$491,000 lower in the first year and \$272,800 lower in the second year.

9. ONE-TIME DELAY OF LAPSE TO GENERAL FUND

Joint Finance/Legislature: Specify that, on a one-time basis, \$20,000,000 of unencumbered program revenue from DFI's general program operations appropriation [s.20.144(1)(g)] that would otherwise lapse to the general fund as GPR-Earned at the end of 2003-04 would, instead, be lapsed to the general fund on July 31, 2004, and be credited as GPR-Earned in the 2004-05 fiscal year. As the lapse delay would be for one month only and would not extend beyond the 2003-05 biennium, this provision would have no fiscal effect, compared to the bill.

[Act 33 Section: 9220(1k)]